

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

|                                 |   |                       |
|---------------------------------|---|-----------------------|
| THE UNITED STATES OF AMERICA,   | ) |                       |
|                                 | ) |                       |
| Plaintiff,                      | ) | 8:01CV500             |
|                                 | ) |                       |
| v.                              | ) |                       |
|                                 | ) |                       |
| DRAVO CORPORATION,              | ) | THIRD AMENDED         |
| DESCO CORPORATION, and          | ) | CASE MANAGEMENT ORDER |
| DESCO CORPORATION d/b/a         | ) |                       |
| MARSHALLTOWN INSTRUMENTS, INC., | ) |                       |
|                                 | ) |                       |
| Defendants and                  | ) |                       |
| Third-Party Plaintiffs,         | ) |                       |
|                                 | ) |                       |
| v.                              | ) |                       |
|                                 | ) |                       |
| BRUCKMAN RUBBER COMPANY and     | ) |                       |
| THE CITY OF HASTINGS, NEBRASKA, | ) |                       |
|                                 | ) |                       |
| Third-Party Defendants.         | ) |                       |

This matter is before the court on the joint motion (Filing No. 240) of the parties to extend the deadlines in the Amended Case Management Order (Filing No. 199). Upon consideration and after consultation with the parties, the motion will be granted as set forth below.

**IT IS ORDERED:**

1. The joint motion (Filing No. 240) of the parties to extend the deadlines is granted. The October 24, 2003 Second Amended Case Management Order (Filing No. 199) is amended to the extent set forth below. Any deadlines in the previous case management order which were reached are not extended herein unless explicitly set forth.

2. **Depositions of Fact Witnesses.** Depositions of fact witnesses which commenced on July 1, 2002 shall continue until March 31, 2004.

3. **Plaintiff and Defendants/Third-Party Plaintiffs' Expert Reports.** Plaintiff and defendants/third-party plaintiffs' expert reports shall be served on or before June 14, 2004.

4. **Third-Party Defendants' Identification of Expert Witnesses and Expert Reports**. Third-party defendants' identification of their expert witnesses and their expert reports shall be served **on or before July 12, 2004**.

5. **Rebuttal Expert Reports**. The rebuttal expert reports of all parties shall be served **on or before August 16, 2004**.

6. **Expert Discovery**. Expert discovery shall commence **on August 17, 2004 and continue until November 15, 2004**.

7. **Depositions for Use at Trial**. The taking of depositions for use at trial shall begin **on November 18, 2004 and continue until January 10, 2005**. To the extent either that the admissibility of other depositions have been stipulated by the parties or that other depositions meet the qualifications set forth in Rule 32 of the Federal Rules of Civil Procedure ("Use of Depositions in Court Proceedings"), depositions not specifically taken for use at trial may also be used at trial.

8. **Dispositive Motions**. Dispositive motions shall be filed **on or before January 11, 2005**. Responses to such motions shall be filed **March 14, 2005**.

9. **Motions in Limine**.

A. **Daubert Motions**. Any motion in limine challenging the admissibility of testimony of an expert witness under Rule 702, Fed. Rules of Evidence, shall be filed **not later than December 19, 2004**. See ***Kumho Tire Co., Ltd. v. Carmichael***, 526 U.S. 137 (1999); ***Daubert v. Merrell Dow Pharms.***, 509 U.S. 579 (1993).

B. **Any other** motions in limine shall be filed not later than **June 30, 2005**.

10. **Settlement and Pretrial Conference**. A telephone pretrial conference to discuss settlement prospects and the requirements for the Joint Pretrial Order will be conducted with the undersigned magistrate judge **at 9:00 a.m. on October 29, 2004**. Plaintiff's counsel shall initiate the telephone conference.

11. **Pretrial Disclosures**. Pursuant to Fed. R. Civ. P. 26(a)(3), each party shall provide to all other parties the following information regarding the evidence that it

may present at trial other than solely for impeachment purposes as soon as practicable **but not later than the date specified:**

**A. Deposition Testimony and Discovery. On or before June 17, 2005** (1) portions of each deposition, designated by page and line, that it intends to offer and (2) each discovery response of another party it intends to offer. Such designations and any objections thereto shall also be included in the final pretrial conference order. **See NELR 16.2.**

**B. Trial Exhibits. On or before June 17, 2005,** a list of all exhibits it expects to offer by providing a numbered listing and permitting examination of such exhibits. The parties shall also designate on the list those exhibits it may offer only if the need arises.

12. **Joint Pretrial Order.** The parties shall prepare and submit to the undersigned magistrate judge a Joint Pretrial Order in accordance with Fed. R. Civ. P. 16(c) and the Local Rules of this Court **on or before July 8, 2005.**

13. **Final Pretrial Conference.** The Court shall conduct a final pretrial conference in chambers, Suite 2271, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, **at 9:00 a.m. on July 15, 2005.**

14. **Trial.** Trial of this matter will commence before Judge Joseph F. Bataillon **on August 1, 2005**, and is expected to last four weeks.

DATED this 8th day of March, 2004.

BY THE COURT:

s/ Thomas D. Thalken  
United States Magistrate Judge